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18 Ganong Estate and Living Trust

19 **IN THE UNITED STATES BANKRUPTCY COURT**

20 **CENTRAL DISTRICT OF CALIFORNIA**

21 **NORTHERN DIVISION**

22 In re) CASE NO. 9:19-bk-11573-MB
23) (Chapter 11)
24 HVI CAT CANYON, INC.)
25 Debtor.) **DECLARATION OF PHILIP GANONG IN**
26) **SUPPORT OF JOINDER IN CHAPTER 11**
27) **TRUSTEE'S OBJECTION TO MOTION FOR**
28) **RELIEF FROM THE AUTOMATIC STAY OR**
) **FOR ORDER CONFIRMING THAT THE**
) **STAY DOES NOT APPLY (DOCKET NO.**
) **790)**
)
) Date: February 25, 2020
) Time: 10:30 a.m.
) Place: 1415 State St.
) Santa Barbara, CA 93101
) Courtroom 201
) Judge: Martin R. Barash
)

29 I, PHILIP GANONG, state and declare as follows:
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1 1. I am an individual and a member of Buganko, LLC
2 ("Buganko) and a beneficiary of the Janet K. Ganong Estate and
3 Living Trust ("Ganong Trust"). I currently reside in Bakersfield,
4 California. I am an attorney licensed to practice in the State of
5 California and before the United States District Court for the
6 Central District of California in California. I have appeared on
7 behalf of Buganko LLC and Janet K. Ganong Estate and Living Trust in
8 this proceeding.

9 2. I have personal knowledge of the matters set forth
10 herein. If called as a witness in this action, I could and would
11 testify competently to the matters contained herein from my personal
12 knowledge or from information communicated to me in the ordinary
13 course of business.

14 3. Buganko is a California LLC formed by myself and my three
15 siblings to manage and/or hold certain lease and contract rights for
16 real property that the Ganong Trust owns in Orange County,
17 California that is part of the real property tract commonly known as
18 the Richfield East Dome Unit ("Redu Property"). My siblings and I
19 are the beneficiaries of the Ganong Trust. Ganong Trust has given
20 Buganko authority to act on its behalf in this proceeding. The land
21 in Orange County that is part of the Redu Property has been in my
22 family for over one hundred (100) years and has been passed down
23 through the generations. Pursuant to a Community Oil and Gas lease
24 (commonly known as the Richfield Consolidated Lease) executed in
25 1919, the owners of various parcels of lands and lots, including my
26 great grandparents, A.J. and Minnie Koch, and W.M. and Ida Bubach,
27 leased their property for oil and gas exploration and development.

28

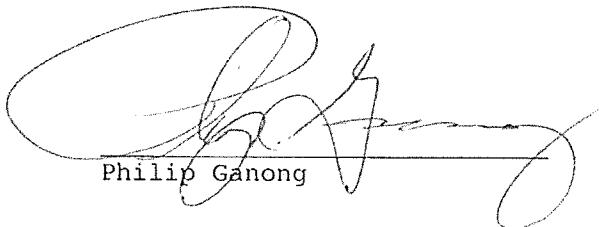
1 In conjunction with the lease, there is a Surface Rental Agreement
2 in place that allows access to the surface for related activities.
3 The Richfield Consolidated Lease and Rental Surface Agreement have
4 been assigned to various lessees over the years and are currently
5 held by the Debtor.

6 4. Pursuant to the terms of a Unit Agreement for the
7 Richfield East Dome Unit, Richfield Oil and Gas Field , Orange
8 County, California dated October 15, 1969, recorded on December 30,
9 1969, as Instrument No. 188862, in Book 9177, at Page 873 of the
10 Official Records of Orange County, California ("Unit Agreement"),
11 the Ganong Trust is currently entitled to certain royalty interests
12 each month from the Debtor. The Debtor has failed to pay Royalty
13 payments to the Ganong Trust since August of 2018. In addition,
14 since August of 2018, through the date of this declaration, the
15 Debtor has failed to provide Ganong Trust the monthly production
16 reports from which the amount of the royalty payments would be
17 determined. On February 27, 2019, the Ganong Trust sent a letter to
18 the Debtor requesting Run Tickets or custody transfer tickets from
19 January 2018 for the Redu Unit, but did not receive the requested
20 information. Post-petition, the Debtor denied Buganko, Ganong Trust
21 or its counsel access to its online "data room" to obtain this
22 information. It is my understanding and belief that the Debtor has
23 failed to provide monthly production reports to all the Royalty
24 holders in this case and has not provided any monthly production
25 data to support the calculation of the Royalty payments which were
26 paid or due to be paid to the Royalty holders.

1 5. As a result of the Debtor's refusal to provide the
2 production data information, there is no certainty as to the amount
3 of royalties that are alleged to be due to GRL, LLC pursuant to the
4 Motion for Relief from Stay filed by GRL, LLC ("the Motion"). The
5 fact that GRL, LLC is an affiliate of the Debtor and an insider in
6 this case should be of equal concern. Following the filing of this
7 case the Debtor and its affiliates have failed to deliver
8 significant oil proceeds generated by the Debtor's
9 operations(exceeding \$1.0 million) to the Chapter 11 Trustee. This
10 estate may have significant claims against these affiliates,
11 including GRL, LLC for this wrongful conduct. Relief from stay
12 should not be granted to GRL, LLC until such time as the amount due
13 to GRL, LLC is determined and whether GRL, LLC is subject to a
14 setoff for post-petition transfers improperly received in this case.

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16
17 I declare under penalty of perjury pursuant to the laws of the
18 United States of America that the foregoing is true and correct.

19 Executed this 10th day of February, at Kern County, Bakersfield
20 Colorado, California

21
22
23
24 
Philip Ganong

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
924 Anacapa Street, Suite 1M, Santa Barbara, CA 93101

A true and correct copy of the foregoing document entitled (*specify*): **DECLARATION OF PHILIP GANONG IN SUPPORT OF JOINDER IN CHAPTER 11 TRUSTEE'S OBJECTION TO MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR FOR ORDER CONFIRMING THAT THE STAY DOES NOT APPLY**

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 2/11/2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 2/11/2020, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Martin R. Barash
United States Bankruptcy Court
Central District of California
21041 Burbank Boulevard, Suite 342 / Courtroom 303
Woodland Hills, CA 91367

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) , I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

2/11/2020
Date

Karen L. Grant
Printed Name

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

ADDITIONAL SERVICE INFORMATION

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”)

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